

FILED

JUL 17 2009

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK

RECEIVED
United States District Court
for the Western District of Texas
JUL 15 2009
SAN ANTONIO Division

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY Inelda Trevino Garcia DEPUTY CLERK

4810 BUCKNELL STREET

SATx. 78249

(Name of plaintiff or plaintiffs)

v.

Civil Action Number:

S A09CA0572

(Case Number to be supplied
by the Intake Clerk)

XR

UNIV. of Tx. HEALTH SCIENCE CTR. - School of Medicine.

7703 FLOYD CURT DRIVE

SATx. 78229

(Name of defendant or defendants)

COMPLAINT

1. This action is brought by IMELDA T. GARCIA, Plaintiff, pursuant to the following selected jurisdiction:

(Please select the applicable jurisdiction)

- ☒ Title VII of the Civil Rights Act of 1964 (42 USC §§ 2000e et seq.) Employment Discrimination on the basis of race, color, sex (gender, pregnancy and sexual harassment), religion or national origin.
- ☒ The Age Discrimination in Employment Act (29 USC §§ 621 et seq.) (ADEA).
- ☒ The Americans With Disabilities Act (42 USC §§ 12102 et seq.) (ADA).
- ☒ The Equal Pay Act (29 USC § 206(d)) (EPA).
- ☒ The Rehabilitation Act of 1973 (29 USC § 791 et seq.) (Applicable to federal employees only).

See Attached

2. Defendant UTHSC - SOM (Defendant's name) lives at, or its business is located at 7703 Floyd Curl Drive (street address), SAN ANTONIO (city), TEXAS (state), 78229 (zip).

3a. Plaintiff sought employment from the defendant or was employed by the defendant at 7703 Floyd Curl Drive (street address), SAN ANTONIO (city), TEXAS (state), 78229 (zip).

3b. At all relevant times of claim of discrimination, Defendant employed _____ (#) employees. ~~If defendant has more than 100 employees, please indicate the number of employees.~~

4. Defendant discriminated against plaintiff in the manner indicated in paragraph 8 of this complaint on or about November (month) 17 (day) 2008 (year). If incidents of discrimination occurred more than one day, please indicate the beginning and ending dates of such acts: STARTED APPROX. 01-01-2007 PRIOR TO TERMINATION DATE ABOVE, 11-17-08, IN PAY INCREASES IN WHICH NONE WAS RECEIVED BY PLAINTIFF.

5. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission (E.E.O.C.) charging defendant with the acts of discrimination indicated in paragraph 7 of this complaint on or about JANUARY (month) 15 (day) 2009 (year). ~~(Not applicable to federal civil service employees).~~ AND THE USDOL/OFCCP, SATX.

6a. The E.E.O.C. issued a Notice of Right to Sue which was received by plaintiff on April (month) 17 (day) 2009 (year). (Not applicable to ADEA and EPA claims or federal civil service employees).

VERY IMPORTANT NOTE:

PLEASE ATTACH A COPY OF YOUR NOTICE OF RIGHT TO SUE AND THE ENVELOPE IN WHICH IT WAS RECEIVED TO THIS COMPLAINT.

6b. Please indicate below if the E.E.O.C issued a Determination in your case:

☒ Yes
☐ No

CASE WAS CLOSED ADMINISTRATIVELY AND WITHOUT PREJUDICE, DUE TO A MISSED DATE FOR SUBMITTING DOCUMENTS, + ITS INABILITY TO CONCLUDE VIOLATIONS.

VERY IMPORTANT NOTE:

IF YOU CHECKED "YES", PLEASE ATTACH A COPY OF THE E.E.O.C.'S DETERMINATION TO THIS COMPLAINT.

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

451-2009-00689

Texas Workforce Commission Civil Rights Division

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Ms. Imelda Trevino

Home Phone (Incl. Area Code)

(210) 696-3878

Date of Birth

05-06-1948

Street Address

City, State and ZIP Code

4810 Bucknell St, San Antonio, TX 78249

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

UT HEALTH SCIENCE CENTER

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(210) 567-6030

Street Address

City, State and ZIP Code

School of Medicine, 7703 Floyd Curl Drive, San Antonio, TX 78229

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

01-01-2007**11-17-2008**

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

From early 2007 and thereafter, the Dean of the School of Medicine and the Vice President/Chief Development Officer systematically reduced my authority by excluding me from meetings, discussions and decisions directly related to my duties and responsibilities as Director of the Medical Alumni Association. Additionally, my supervisors discounted my contributions to the program while instead crediting my accomplishments to my younger Anglo trainee.

Within the last 300 days, I received no pay raises or bonuses, and/or have received only disproportionate cost of living increases as compared to my younger Anglo cohorts and my supervisor.

On or about November 10, 2008, the Vice President/Chief Development Officer implied in a discussion that she started and which perceived me as disabled even though I had not self identified.

On November 17, 2008, the Vice President/Chief Development Officer told me that if I did not resign, I would be terminated because my skills did not fit with the Dean's directions or plans for the department. When I refused to resign, I was separated from employment effective November 17, 2008; placed on administrative leave with pay through February 27, 2009; escorted from the facility; and instructed not to return to the workplace. The Assistant to the Dean, School of Medicine told me that my discharge was not based upon my job performance. I was immediately replaced by the younger Anglo employee who I had been training.

I believe that I have been discriminated against because of my national origin, Hispanic/Latina, in violation of Title VII of the Civil Rights Act of 1964, as amended, and because of my age, 60 years old, in violation of the Age Discrimination in Employment Act of 1967. I also believe that I have been discriminated against in violation of the Americans with Disabilities Act of 1990.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

January 16, 2009 Imelda Trevino
Date Charging Party Signature

**CIVIL SUITE ATTACHMENT TO JS44 FOR COMPLAINANT,
IMELDA TREVINO VS. UTHSC-SOM:**

Section IV:

#442/EMPLOYMENT:

The UTHSC and its employees discriminated against Ms. Trevino as she has asserted, because of her National Origin (Hispanic) and against Hispanics in general, as other qualified protected group members have also been discriminated against, as in Retention, Recruitment, Applicant Flow, Hiring, Promotions, Salary Increases, etc., from underutilized upper levels of management positions, such as for example, Doctor Richard Ortega, PhD., Hispanic male, previously employed at UTHSC-SOM, as Director Of Development for the School of Medicine (SOM), until the University harassed, embarrassed and treated him in an unprofessional manner in front of cohorts and subordinate staff members in staff meeting, similarly to the way Ms. Trevino was also treated by the Vice President of Development, their same immediate supervisor, acknowledging that this complaint should be viewed as a "Class Action" complaint as more than one person has been denied their rights for EEO and/or AA.

In addition, Ms. Trevino charges that she was also discriminated against in VIOLATION of diverse sections of the Executive Order 11246, as Amended; The Rehabilitation Act of 1973 and the American with Disabilities Act, requiring the UTHSC to demonstrate Good Faith Efforts for Equal Employment Opportunities (EEO) for Protected group Members under its status as a Federal Contractor and obligations for EEO and Affirmative Actions (AA) as follow as a minimum:

41CFR, Chapter 60, at: 60-1.1, (4)(ii), (B)(C); 60-2.10(a), (1), (2)(3); 60-2.17(b)(3)(5), (d)(1), (4); 60-3.6(1) and 60-3.14C(1)&(8), again as a minimum, in not only against myself, but Protected Group Members and as a minimum as well to the best of my knowledge, Hispanics for Upper Level Management and underutilized positions under its EEO & AA Plans, to include, No Disparate Treatment under

The Rehabilitation Act of 1973, As Amended, & in its "Perception" of Ms. Trevino as disabled, in violations of Sections:

41CFR 60-741, in it's "perception" of Ms. Trevino as a disabled incumbent, at: 60-741.1; 741.2(n), (m), (ii), (0)(2), (q), ©, ®, (S)(1)(3), (t); 741.2(v)(ii)(iii), (2); 741.3©(2) and 741.20, as a minimum, and to include similar violations under

#445/THE AMERICANS WITH DISABILITY ACT – Employment:

By it's failure in providing "reasonable" accommodations to the complainant's Perceived Disability as required and NOT discriminates accordingly. Even though Ms. Trevino has never SELF-IDENTIFIED as disabled, The UTHSC was aware of her disability as a Protected group Member under the ADA, with the disability of Fibromialgia.

#440/OTHER CIVIL RIGHTS:

Loss of Finances, as each member under the aforementioned, VP of Development, have received monetary increases to include, annual increases, cost of living and/or merit or performance increases, to include the VP of Development, under the School of Medicine, EXCEPT for the Complainant, Ms. Trevino, and was NOT recognized for her accomplishments of nurturing, grooming, nor increasing the finances as a result of her plans of action and efforts being made, increasing the amount of financial growth, which was instead given credit to the aforementioned VP of Development and her supervised Director of Development, who either barely participated in her plans of actions and/or efforts, or had no direct involvement at all, which distorted the perception that she was not an alleged "Good Fit" with the Dean over the School of Medicine, desire for a "Robust" Alumni program!

Also, Ms. Trevino was denied any employment rights in becoming aware of the pretextual & adverse actions being "planned" against her to submit a rebuttal, as is the University's policy for EEO & AA, nor provided a proper EXIT briefing, as again as the normal course of actions for employees being discharged, as her's was under the "guise" or Pretext that she was "Not a Good Fit" for the Dean's directions, plans, nor explained what her appeal rights were, nor her rights to COBRA, nor her rights for unemployment compensation, nor any employment rights she may have been entitled to, etc., as the University's normal and required policy and procedures, *+ LAWS AGAINST DISPARTE TREATMENT. (omg!)*

#710/FAIR LABOR STANDARDS ACT:

The University's violation of compliance to the aforementioned Labor laws, in violation of its required Standard Operating Policy & Procedures for discharged employees receiving receiving an Exit Briefing, it's non-compliance to not discriminate under the relevant sections of the Executive Orders, Acts and its Obligations as a Federal Contractor for providing EEO & AA to all of its Employees, as per its internal policies and procedures, especially under its Exit Briefing and The University's violation of Texas Right To Work or as the UTHSC calls it to justify their diverse violations of multiple Fair Labor Standards "Employment at Will", as long as it's not based upon any Prohibitive Factors as mentioned in Ms. Trevino's complaint as a minimum.

#895/FREEDOM OF INFORMATION ACT(FOIA):

The University has denied Ms. Trevino full and complete access to her personnel file and to any & all relevant inter and intra documentations, memorandums, notes, and/or all written communications pertaining to her complaint, which are not exempt from disclosure as referenced under the FOIA.

Imelda Treviño Garcia 4407 Brushy Hill San Antonio, TX 78217 210-413-5396

RESUME

ATTACHMENT #VII

Education

Master of Business Administration (MBA) – Management - Our Lady of the Lake University 1988

Bachelor of Arts- Mathematics and Chemistry Our Lady of the Lake University 1970

Summary of Qualifications and Experience

Present Position

Director of Alumni Relation - Our Lady of the Lake University - 1998 to present

- Established the Alumni Relations Department as separate unit under the Institutional Advancement (IA) Division. (Prior to 1998 - it was a part of the Development Department);
- Developed the initial objectives, goals and budget for the department;
- Supervise and coordinate all Alumni Relations activities, projects, events;
- Design the strategic plan for the department to coincide with the University's strategic plan;
- Develop the department's annual operational plan and budget;
- Established the Alumni Executive Council of the Alumni Association;
- Primary liaison with the alumni association, the Alumni Executive Council, Board of Trustees, deans and other departments participating in alumni programs, i.e. developed programs that partner with the deans involving alumni as guest speakers, attendees or facilitators at programs, conferences and workshops;
- Developed the Alumni Recruitment Ambassador Program in partnership with the VP for Enrollment Management which include alumni in student recruitment activities;
- Designed a plan to increase revenue for the alumni scholarship fund and other needed funding;
- Recruit, supervise and coordinate volunteer support groups to assist with alumni projects;
- Identify and develop contacts with alumni who are international, national/state/local business leaders, or foundation executives/trustees to establish a solid network of references for future alumni and University projects.
- Establish and develop alumni meetings with key individuals such as and/or Vice President(s) as necessary to further develop contacts with key alumni
- Identify with the Director of Development to identify prospective alumni donors and major supporters of the University and its mission;
- Developed a mentoring program for alumni/student participation and networking;
- Prepare alumni reports for bi-monthly Board of Trustees meetings and reports for Vice President of Institutional Advancement and the Institutional Advancement Committee of the Board of Trustees as requested;
- Provide information on all alumni segments as requested by members of President's Council or Board of Trustees;
- Skilled bi-lingual public presenter (including television and radio) with extensive experience in providing oral presentations that include analysis of alumni information and activities (fluent in Spanish);
- Interface for database and alumni website development and maintenance;

- Direct the IA Microcomputer Maintenance & Network Support Technician who serves as the Division's Database Administrator;
- Member of the search committees for the Vice President of Institutional Advancement and Chief Planning Officer; and member of the Space Planning Council and the Administrative & Educational Support Program Review Council.

Additional Work Experience Prior to 1998

Annual Fund Officer -OLLU 1996-1998

- Designed and coordinated all fundraising efforts for the Annual Fund - phonathon, direct mailings, fundraisers, direct personal calls on alumni;
- Established a Business Partners and Scholars Program whereby businesses and corporations 'sponsored' a student with financial contributions to scholarship funds
- Matching Gift Program designed for Board of Trustees
- Met goals of \$300,000 and \$350,000. Established lists of key leaders from alumni population for capital campaign

Director/Chief Administrator Data Processing Service Harlandale Independent School District 1991-1996

- Developed, managed and maintained information systems for 26 campuses and 20+ departments;
- Trained school district data entry staff

Community Organizations

- San Antonio Women's Celebration and Hall of Fame - First VP and other offices
- Our Lady of the Lake University Alumni Association – President
- Youth Orchestras of San Antonio (YOSA) - President
- Business And Professional Women's Club, Inc. Of SA (BPW, INC. SA) - President
State District levels and local chapter
- BPW, INC. SA Scholarship Foundation - Trustee
- Tejano Music Awards Scholarship Committee – Chair and founding member
- Leadership San Antonio (San Antonio Greater Chamber) - Steering Committee Member
- Graduate of LEADERSHIP SAN ANTONIO
- Lecturer/Motivational Speaker for various organizations and schools (List provided upon request.)

Awards/Honors

Outstanding Hispanic Woman Award presented by IMAGE of San Antonio

San Antonio Women's Hall of Fame – Inducted for "Civic Leadership"

Outstanding Alumna Award For Contributions to the Alma Mater presented by Our Lady of the Lake University

Outstanding Volunteer Award presented by the National Association of Fund Raising Executives

Woman of the Year Award presented by the Business and Professional Women's Club, Inc. of San Antonio

Previous work experience and references provided upon request.

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

→ **PRIVATE SUIT RIGHTS**

**-- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

→ In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

7. Because of plaintiff's:

(Please select the applicable allegation(s))

- ☒ Race (If applicable, state race) HISPANIC ~~MEXICAN~~
- ☐ Color (If applicable, state color) _____
- ☐ Sex (gender, pregnancy or sexual harassment) (If applicable, state sex and claim) _____
- ☐ Religion (If applicable, state religion) _____
- ☒ National Origin (If applicable, state national origin) HISPANIC-MEXICAN descent
- ☒ Age (If applicable, state date of birth) 60; MAY 6, 1948
- ☒ Disability (If applicable, state disability) FIBROMYALGIA
- ☐ Prior complaint of discrimination or opposition to acts of discrimination. (Retaliation) (If applicable, explain events of retaliation) _____

The defendant: (please select all that apply)

- ☐ failed to employ plaintiff.
- ☒ terminated plaintiff's employment.
- ☐ failed to promote plaintiff.
- ☐ harassed plaintiff.
- ☒ other (specify) SALARY DISPARITY OF INCREASING difference between SIMILARLY & DISSIMILARLY SITUATED WORKERS/EMPLOYEES UNDER DEAN HENRICH'S AND VP, D. MORRILL, HAS BEEN IMPLEMENTED IN VIOLATION OF THEIR + UHSC- EEO + AA policies + obligations, + FEDERAL LAWS + Regs., RIGHTS + ACTS.

- 8a. State specifically the circumstances under which defendant, its agent, or employees discriminated against plaintiff PERSONALLY:

VERY IMPORTANT NOTE:

INCLUDE SPECIFIC DATES, SPECIFIC EVENTS, AND ANY SPECIFIC COMMENTS MADE BY DEFENDANT PERTAINING TO THE DISCRIMINATION CLAIM ALLEGED ABOVE.

(Behaviors occurred between OCT., 2007 AND NOV., 2008).

1. I WAS DENIED FROM ANY DIRECT CONTACTS/COMM. W/ DEAN HENKCH, + COULD ONLY COMM. WITH HIM VIA VP, D. MORRILL, AS IT SEEMS THAT THIS DIRECT ORDER ONLY APPLIED TO ME, + NOT MY COHORT(S).
2. I WAS "ORDERED" TO TRAIN KIM WASHAWER, MY COHORT + DIRECTOR OF DEVELOPMENT, IN "ALL" ALUMNI ACTIVITIES WITHOUT EXCEPTIONS +/A EXPLANATIONS AS TO THE PURPOSE, EXPECTATIONS, +/A MY POSITION DESCRIPTION.
3. THE DEAN RARELY SPOKE-2- ME, CHOOSING INSTEAD THE DIR. + VP DEVELOPMENT.
4. I WAS NEVER INFORMED BY JOB PERFORMANCE WAS SUBSTANDARD, BY THE DEAN, ALTHOUGH I HAD A "DIRECT" CHAIN OF COMMAND TO HIM, UNTIL ALTERED BY THE VP, MORRILL, + AS SHE TOOK CREDIT FOR MY ACCOMPLISHMENT(S).

- 8b. List any witnesses who would testify for plaintiff to support plaintiff's allegations and the substance of their testimony:

1. MARGARET T. McGETT - See ATTACHED STATEMENT - ^{WHAT WAS SAID} DURING EXIT BRIEF.
2. ISABEL B. RODRIGUEZ - WILL VERIFY PLAINTIFF'S REASON - 4- TERMINATION.
3. JESSICA GARZA - TERMINATION NOT BASED ON SKILLS!
4. DR. HOLLY, JAMES - ALUMNI BOARD PRESIDENT - NOT A CONSENSUS - 4- TERM.
5. DR. FLACK, DAVID - " " " " " " " " " "

- 8c. List any documentation that would support plaintiff's allegations and explain what the documents will prove:

6. MR. WHITE, THOMAS - ACTING DEAN; 2-show TERM. NOT DUE TO SKILLS/PERFORMANCE

See COMMENTS ABOVE @ # 8b.

9. The above acts or omissions set forth in paragraphs 7 and 8 are:

- ☐ still being committed by defendant.
☐ no longer being committed by defendant.
☒ UNKNOWN!

10. Plaintiff should attach to this complaint a copy of the charge filed with the Equal Employment Opportunity Commission. This charge is submitted as a brief statement of the facts supporting this complaint. O.K. + DONE!

QUESTIONNAIRE FROM IMELDA TREVINO:

1. **PRINT FULL NAME:** Margaret Ayala-Meggett
SIGNATURE: Margaret Ayala-Meggett
TODAY'S DATE: April, 17, 2009 _____
2. **CIRCLE TITLE (Mr., Ms., Dr. MD; Dr. PhD) Mrs.**
3. **INDICATE HOW LONG YOU HAVE KNOWN ME:** ___ All your life ___
4. **IN WHAT CAPACITY (WORK RELATED; FRIENDS; PROFESSIONAL ETC):** ___ I am your older sister _____
5. **IN YOUR OPINION, IF KNOWN BY HEARSAY, OR BY FACTS (CIRCLE ONE PLEASE), HOW YOU LEARNED OF WHY I NO LONGER WORK AT THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER – SCHOOL OF MEDICINE?**

EXACTLY WHAT DID YOU HEAR OR KNOW TO HAVE OCCURRED & RESULTED IN MY LEAVING THE UNIVERSITY? _____

On November 17 , 2008, Ms. Trevino called and asked if I could be available to attend a meeting that she was asked to attend scheduled for 4:00 PM. She said Vice-President and Chief Development Officer, Ms. Debbie Morrill, Assistant Dean, Mr. Tom White (representing Dean Henrich) and a Human Resources person would be attending. Ms. Trevino said she had questioned EEO Ombudsman and Executive Director of EEO/AA Office, Dr. Bonnie Blackmeyer prior to the meeting, as to why an HR person would be present at the meeting. Dr. Blackmeyer told her that an HR person usually is present at these meetings as the employee's advocate. I made myself available and a few minutes after the meeting started, Ms. Trevino called me to the meeting where we met outside. She told me that she had been given an option to resign or be terminated and she needed support and another pair of ears to make sure that she understood what was being said to her.

We entered the meeting, and I was immediately asked to introduce myself, state why I was there, was I an attorney, was I Ms. Trevino's representative, etc. I told them who I was and why Ms. Trevino had asked me to be there. I told them that I was there to give Ms. Trevino support and witness anything that was being said to or asked of her. The next thing that happened is that the HR representative, Ms. Sendula again told Ms. Trevino in my presence that she had two options: 1. To resign or 2. Be terminated. Ms. Trevino asked why this was being done and asked Mr. White if he had anything to say since she had worked so closely with him before. She also asked Ms. Morrill what this was all about since she (Ms. Morrill) had just told her a few weeks back that she would

Attachment 10

help her build a more "robust" plan as the Dean had asked from her and not to worry until they got together again. Ms. Trevino also reminded Ms. Morrill that at that same meeting was the first time she learned or was told that the Dean was not happy with the direction of the Alumni Department. Ms. Trevino mentioned that the Dean even shook hands with her and congratulated her on her achievement at the Home Coming Events in October, 2008.

Mr. White stated "Imelda, it is not your job performance; it is just that the dean wants to take the Alumni Department in a different direction and your skills are not a good fit." Ms. Morrell also stated that it had been decided that her skills were not a fit for the dean and that is all. I asked Ms. Morrill who had decided this. Ms. Sendula, Human Resources, appeared insensitive and harsh in demeanor and communication towards Ms. Trevino throughout the meeting, stated that Ms. Morrill and the Dean had made the decision and that in this particular case, Ms. Morrill, VP, represented the President of the University SOM and Mr. White represented the Dean. Ms. Sendula again demanded if Ms. Trevino was going to resign or be terminated. She stated that Ms. Trevino's job was at the pleasure of the President and they could terminate her anytime they wanted to. Ms. Sendula also stated that she would help her find a similar job within the university system so that maybe she would not have to go off the rolls after her three months administrative leave she was being placed on. She would also be receiving benefits during these three months.

Ms. Trevino asked to step out for a few minutes. We talked and went back in to the meeting. I was shocked at Ms. Sendula's closing the meeting immediately and stating that there would be no further discussion and Ms. Trevino had to make up her mind what she wanted to do. I said there is no discussion. I did ask would the job be abolished. Ms. Sendula simply said "No it will be re-posted." Ms. Sendula again asked are you ready to resign and Ms. Trevino said no, I am not resigning because I have done nothing wrong. Ms. Morrell asked Ms. Trevino "are you sure you don't want to resign, Imelda?" Ms. Trevino said no.

Immediately thereafter, Ms. Sendula threw a sheet of paper at Ms. Trevino and said, "This is your termination letter. Mr. White will go with you while you remove all your personal belonging from your office." Ms. Trevino asked, "Do I have to sign anywhere?" and started to try to read the letter. Ms. Sendula said no and dismissed Ms. Trevino to go collect all her belongs and leave the building. She was told she should not return to the University premises. Mr. White accompanied us to Ms. Trevino's office while we labored to remove all her belongings. It took several hours.

6. DO YOU AGREE OR DISAGREE WITH QUESTION #5 ABOVE AND WHY?

No I definitely do not agree with the termination and certainly not the manner in which it was conducted. Ms. Trevino had served in the capacity of Director of Alumni Affairs for the past five years, had developed the department from scratch to the point where she was continuously given kudos by her peers, superiors, all the Alumni Board, and others aware

of her work. She worked countless hours developing the different programs and plans keeping the University School of Medicine Board of Directors goals and wishes to better the University public image and at the same time cultivate the alum to donate money for scholarships, etc. She actually brought back some alum who were previously unhappy with the University, cultivated and nurtured their relationships toward the University to the point where they are now regular donors.

Ms. Trevino had never been told that the tedious plans and programs she was planning were anything but great. She had very organized reports on all goals, plans, development and final results on all her projects towards the goals. She was given "meet expectations" in nearly every element in her Performance Evaluation Reports during her tenure and also "exceeds expectations" in some elements always with a "meets" overall review. Many times her reviews were untimely given and or missed by those who actually were her supervisors. However, Ms. Morrill's last review of Ms. Trevino was a good one and she was not told that she was not going in the direction of the dean's wishes, nor that she was in need of any improvement(s) in any areas of her job performance.

**7 PLEASE MAKE ANY ADDITIONAL COMMENTS SHOULD YOU
CHOSE TO BELOW &/OR USE THE BELOW AS A CONTINUATION
FROM A PRIOR QUESTION ABOVE SHOULD YOU NEED MORE
SPACE::**

Ms. Trevino was never given any appeal rights, affirmative action rights, nor proper explanations of why she was being terminated and treated in this manner. She was not advised about COBRA or any other benefits she might be eligible for.

Further she was never even provided an opportunity to present her side of any charges or of the harsh adverse action of Employment Termination, nor ever talked to about possibly finding her a job as she was promised. Her representative had to ask numerous times for Ms. Trevino to be advised of COBRA and other benefits she could apply for and how to go about applying for anything.

I do not blame her for feeling discriminated against. At her level as Director and her tenure at the University, her "meets expectations" reviews, the kudos from the Alumni Board and others, the handshake from the Dean, I couldn't believe it. They said it wasn't her performance; it was that she was "not a good fit with the dean". This was never mentioned to her nor explained to her. She not even given the opportunity to read the "termination letter" or ask for further clarifications, but treated like someone who had committed a crime or some serious just cause and needed to be "ousted immediately."

If she had been advised prior about any alleged sub-standard performance, it would have been incumbent upon her supervisor, Ms. Morrill, to prepare along with Ms. Trevino a Performance Improvement Plan (PIP) whereby Ms. Trevino with her vast knowledge and experience of alumni affairs even before she came to the University of Texas SOM, would have had the opportunity to improve and become proficient in the direction the Dean wanted the Alumni Department to go. She would have been a Good Fit for the Dean's intentions by now. But instead they chose to ruin her career, throw away all that

experience and knowledge and make a mockery of her before many of her peers and staff that were still in the building. Mr. White stayed with us until we loaded everything into our cars and left, as if to make sure we didn't take anything from the University that didn't belong to us or to make sure we didn't slip back in after he left. It was a terrible feeling to experience the way Ms. Trevino was treated. They decided to bring in someone else who would have to be trained and could not easily just jump right into the job. I agree with Ms. Trevino, she was discriminated against; that is the only thing that makes sense.

National Origin: Ms. Trevino is the only true Hispanic in the Department; new employee Non-Hispanic.

Age: It does not matter that all involved are over 40 or not the difference of ages is still significant. Concerning the new employee hired, he is under 40.

Disability (Perceived): Ms. Morrill alluded to Ms. Trevino that perhaps she wasn't well since she had not been looking well and that she would help her with the "robust plan" for the Dean. Ms. Trevino might have mentioned to someone in the office that she had "fibromyalgia", but she never claimed to be disabled. If Ms. Morrill thought she was and it would again be incumbent on Ms. Morrill by law to reasonably accommodate Ms. Trevino with assistance or place her on another job that she felt she could handle. She never did this nor did she help her with the plan. Two weeks later she fired her without given her the opportunity to show that she could be a good fit.

THANKING YOU BEFOREHAND FOR YOUR TIME AND EFFORT!

IMELDA TREVINO _____

WHEREFORE, plaintiff prays that the Court grant the following relief to the plaintiff:

- ☒ Defendant be directed to employ plaintiff.
- ☒ Defendant be directed to re-employ plaintiff.
- ☐ Defendant be directed to promote plaintiff.

- ☐ Defendant be directed to "MAKE WHOLE REMEDIAL ACTIONS," FRONT + BACK PAY; PURGE COMPLAINTS FILE OF THIS INCIDENT; DISCIPLINE ALL INVOLVED IN THIS PRETEXTUAL PLAN-4-TERMINATING COMPLAINT; AWARD VACATION CREDITS, SICK LEAVE CREDITS, SALARY INCREASES OF PERCENTAGES EQUAL TO THOSE RECEIVED IN THE SCHOOL OF MEDICINE, AND/OR
ANY OTHER ENTITLED BENEFITS OWED, BUT FOR THE ACTS OF DISPARATE TREATMENT SHE WOULD REC. and that the Court grant such other relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Date

July 14, 2009

Signature of Plaintiff

Shelda Trevino

Address of Plaintiff

4810 BUCKNELL STREET

City

SAN ANTONIO, TX.

State

78249

Zip Code

Telephone Number(s)

(210) 696-3878

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Imelda Trevino
c/o Alonzo Meggett, Jr.
EEO Consultant/Advisor
4867 Camas
San Antonio, Texas 78247

From: U.S. Equal Employment Opportunity Commission
San Antonio Field Office
5410 Fredericksburg Road, Suite 200
San Antonio, Texas 78229-3555



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

451 2009 00689

Austin Jaycox, Enforcement Supervisor

(210) 281-7650

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Enclosures(s)

Pedro Esquivel, Field Director

4.17.2009
(Date Mailed)

cc: U.T. Health Science Center

[illegible]



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Antonio Field Office

5410 Fredericksburg Road, Suite 200
San Antonio, TX 78229-3555
Toll Free: 866-408-8075
Potential Charge Inquiries: 800-669-4000
TTY (210) 281-7610
FAX (210) 281-2522

Dallas District
San Antonio Field Office
El Paso Area Office

Alonzo Meggett, Jr.
EEO/AA Consultant/Advisor
4867 Camas
San Antonio, Texas 78247

RE: Charge No.: 451-2009-00689
Imelda Trevino vs. University of Texas Health Science Center

Dear Mr. Meggett:

This will acknowledge your correspondence of April 22, 2009, requesting an appeal of the determination issued by our office on the above referenced charge on April 17, 2009.

There is no procedure for such appeal/reconsideration. Our Procedural Regulation, 29 CFR 1601.21d, reads, in part:

"Each determination issued under this section is final when the Letter of Determination is issued."

However, I may on my own initiative reconsider my own determination. Pursuant to your request, I have reviewed the entire file and your correspondence to decide if I should on my own motion reconsider the determination. Your correspondence has not brought forth any evidence indicating reconsideration is warranted, nor does your correspondence provide any additional pertinent information.

Therefore, your reconsideration is denied and the determination stands as issued on April 17, 2009.

The dismissal notice you received on behalf of Ms. Trevino explained her right to pursue the matter in court by filing a private lawsuit within 90 days of receipt of the dismissal. If a lawsuit is not filed within this statutory 90 day period, Ms. Trevino's right to sue in this matter will expire and it cannot be restored by EEOC.

Sincerely,

A handwritten signature in dark ink, appearing to read "Pedro Esquivel", is written over a horizontal line.

Pedro Esquivel
Director

05-12-09
Date

US EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
SAN ANTONIO DISTRICT OFFICE
5410 FREDERICKSBURG ROAD SUITE 200
SAN ANTONIO, TX 78229-3555

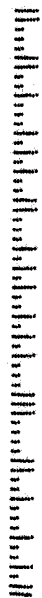
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Reconsideration Hypothetical
5/18/09

Alonzo Meggett, Jr.
EEO/AA Consultant/Advisor
4867 Camas
San Antonio, Texas 78247

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